



# 1-1/5  
1-9-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	Art Unit: 1652
	)	
FOGH, et al.	)	Examiner: WALICKA, M.
	)	
Serial No.: 09/601,138	)	Washington, D.C.
	)	
Filed: October 26, 2000	)	January 7, 2002
	)	
For: METHOD FOR TREATING	)	Docket No.: FOGH=1
ACUTE INTERMITTENT...	)	

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REQUEST TO RESET DEADLINE UNDER MPEP 707.05(g)

Commissioner of Patents  
Washington, D.C. 20231

S i r :

On December 27, 2001, counsel became aware that the Beutler article cited by the Examiner in the November 6, 2001 office action was not in the file. Counsel left a voicemail message for the examiner, asking for a copy, the same day.

On January 3, 2002, the Examiner faxed the Beutler article to counsel. The Examiner's cover sheet commented, "the reason you could not find this copy in my office action is that I just had not attached it, as indicated by the star mark in the PTO-892".

It is clear from MPEP 707.05(g) and Form Paragraph 7.82.01 that when an Examiner knowingly mails an office action without providing a copy of a reference required to be provided by MPEP 707.05(a), the period for response is restarted to run from the mailing date of the letter enclosing the copy. Hence, the period for response should be reset to run three months from January 3, 2002, i.e., to expire on April 3, 2002 (extendible).

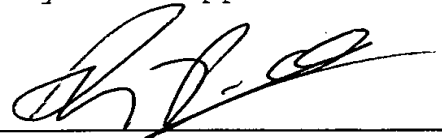
Normally, under MPEP 710.06, when the applicant notifies the Examiner of a defect in an office action, the date of the notification is relevant to the calculation of the new deadline. Here, however, the Examiner know of the defect from the very beginning, i.e., within 1 month of the mail date of the action,

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and hence the 3 month period should be restarted to run from the mail date of the Beutler article.

Respectfully submitted,

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Attorneys for Applicant

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# UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
WASHINGTON, D.C. 20231  
www.uspto.gov

## Fax Cover Sheet

Date: 03 Jan 2002

To: Iver Cooper	From: Malgorzata A. Walicka
Application/Control Number: 09/601,138	Art Unit: 1652
Fax No.: (202)737-3528	Phone No.: (703) 305-7270
Voice No.:	Return Fax No.: (703) 305-3014 308 - 0294
Re:	CC:
<input checked="" type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> For Comment <input type="checkbox"/> For Reply <input type="checkbox"/> Per Your Request	

### Comments:

Dear Mr Cooper:

I am faxing the copy of the Beutler paper. The reason you could not find this copy in my Office action is that I just had not attached it, as indicated by the star mark in the PTO form 892.

Sincerely,

*M Walicka*

Malgorzata A. Walicka

Number of pages 7 including this page

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Assistant Commissioner for Patents